

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JACK REESE, FRANCES ELAINE  
PIDDE, JAMES CICHANOFSKY, ROGER  
MILLER, and GEORGE NOWLIN,

Plaintiffs,

v.

CNH GLOBAL N.V. and CNH AMERICA  
LLC,

Defendants.

Case 2:04-cv-70592-PJD-PJK

Hon. Patrick J. Duggan, U.S.D.J.

Hon. Paul J. Komives, U.S. Mag. J.

**CNH’S CORRECTED RESPONSE TO  
PLAINTIFFS’ FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS**

CNH Global N.V. and CNH America LLC—referred to collectively as “CNH”—hereby provides a corrected response to Plaintiffs’ Fourth Request for Production of Documents. *See* Fed. R. Civ. P. 34(b).

**GENERAL OBJECTIONS**

1. CNH objects to Plaintiffs’ definition of “document” (Pls.’ 4th Req. Prod. Docs. 2–3), to the extent it expands the scope of, the term as employed in the rules. CNH will interpret “document” to have the meaning provided in the rules. *See* Fed. R. Civ. P. 34(a)(1).

2. CNH objects to Plaintiffs’ definition of “possession, custody or control” (Pls.’ 4th Req. Prod. Docs. 3), to the extent that it expands the scope of CNH’s obligation under the rules. CNH will produce documents in its “possession, custody, or control.” *See* Fed. R. Civ. P. 34(a)(1).

3. CNH objects to Plaintiffs’ instruction regarding what to do when “a document which is within the scope of these requests is identified but is not in [CNH’s] custody or control” (Pls.’ 4th Req. Prod. Docs. 3–4), because “the burden or expense” of responding to document

requests using the instruction “outweighs [their] likely benefit, considering the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the [document requests] in resolving the issues.” Fed. R. Civ. P. 26(b)(2)(C)(iii). CNH will produce documents that are within its “possession, custody, or control.” *Id.* R. 34(a)(1).

4. CNH objects to Plaintiffs’ instruction that—for privileged documents—CNH state the “identity of every other person who has ever had possession of the document” concerning privileged documents (Pls.’ 4th Req. Prod. Docs. 4), because “the burden or expense” of responding to document requests using the instruction “outweighs [their] likely benefit, considering the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the [document requests] in resolving the issues.” Fed. R. Civ. P. 26(b)(2)(C)(iii). CNH will provide the information about privileged (and responsive) documents that is required by the rules. *See id.* R. 26(b)(5).

5. CNH objects to Plaintiffs’ definition of “Medical Claims Data” (Pls.’ 4th Req. Prod. Docs. 4), because “the burden or expense” of responding to document requests using the term “outweighs [their] likely benefit, considering the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the [document requests] in resolving the issues.” Fed. R. Civ. P. 26(b)(2)(C)(iii).

6. CNH objects to Plaintiffs’ definition of “Prescription Drugs Claims Data” (Pls.’ 4th Req. Prod. Docs.), because “the burden or expense” of responding to document requests using the term “outweighs [their] likely benefit, considering the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the [document requests] in resolving the issues.” Fed. R. Civ. P. 26(b)(2)(C)(iii).

7. CNH objects to the document requests to the extent that they seek information not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1).

8. CNH objects to the document requests to the extent that they are “unreasonably cumulative or duplicative” or seek information that “can be obtained from some other source that is more convenient, less burdensome, or less expensive.” *Id.* R. 26(b)(2)(C)(i).

9. CNH objects to the document requests to the extent that they seek information that Plaintiffs “ha[ve] had ample opportunity to obtain.” *Id.* R. 26(b)(2)(C)(ii).

10. CNH objects to the document requests to the extent that “the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.” *Id.* R. 26(b)(2)(C)(iii).

11. CNH objects to the document requests to the extent that they seek information protected by the attorney–client privilege, attorney-work-product doctrine, or any other applicable statutory or common-law privilege or bar on disclosure. *See id.* R. 26(b)(1).

12. CNH objects to Plaintiffs’ definition of “Company” (Pls.’ 4th Req. Prod. Docs. Def. 2), because “the burden or expense” of responding to document requests using the term “outweighs [their] likely benefit, considering the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the action, and the importance of the [document requests] in resolving the issues.” Fed. R. Civ. P. 26(b)(2)(C)(iii). CNH will interpret “Company” to mean, as appropriate, CNH Global N.V. or CNH America LLC.

## RESPONSES

**1. Medical Claims Data for each Current Plan Participant for plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 5, 6, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**2. Prescription Drug Claims Data for each Current Plan Participant for plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 5, 6, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**3. FAS 106 Valuations for each Current Plan Participant for the Current Plan for plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 9 and 10. Subject to these objections, CNH states that is not aware of any responsive documents.

**4. All documents showing or used in calculating the FAS 106 Valuation for the Proposed Plan Participants for plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH states that is not aware of any responsive documents.

**5. All documents showing or used in calculating the annual cost of medical benefits to the Company for each non-Medicare eligible Current Plan Participants for plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**6. All documents showing or used in calculating the annual cost of prescription drug benefits to the Company for each non-Medicare eligible Current Plan Participant for plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**7. All documents showing or used in calculating the estimated annual cost of medical benefits to the Company for each non-Medicare eligible Proposed Plan Participant who would be enrolled in the Proposed Plan for plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**8. All documents showing or used in calculating the estimated annual cost of prescription drug benefits to the Company for each non-Medicare eligible Proposed Plan Participant who would be enrolled in the Proposed Plan for plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**9. All documents showing or used in calculating the annual cost of medical benefits to the Company for each Medicare eligible Current Plan Participant for plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**10. All documents showing or used in calculating the annual cost of prescription drug benefits to the Company for each Medicare eligible Current Plan Participant for plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**11. All documents showing or used in calculating the estimated annual cost of medical benefits to the Company for each Medicare eligible Proposed Plan Participant for plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**12. All documents showing or used in calculating the estimated annual cost of prescription drug benefits to the Company for each Medicare eligible Proposed Plan Participant for plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**13. All documents showing or used in calculating the estimated monthly premium share under the Proposed Plan for each non-Medicare eligible Proposed Plan Participant for plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**14. All documents showing or used in calculating the estimated monthly premium share under the Proposed Plan for each Medicare eligible Proposed Plan Participants for plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**15. All documents showing or used in calculating the estimated out-of-pocket cost of medical benefits the Current Plan for non-Medicare eligible Current Plan Participants in deductible, co-pays, co-insurance or other payments for the plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 9, and 10.

Subject to these objections, CNH states that it is not aware of any responsive documents.

**16. All documents showing or used in calculating the estimated out-of-pocket cost of prescription benefits the Current Plan for non-Medicare eligible Current Plan Participants for the plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 9, and 10.

Subject to these objections, CNH states that it is not aware of any responsive documents.

**17. All documents showing or used in calculating the estimated out-of-pocket cost of medical benefits the Current Plan for Medicare eligible Current Plan Participants in deductible, co-pays, co-insurance or other payments for the plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 9, and 10.

Subject to these objections, CNH states that it is not aware of any responsive documents.

**18. All documents showing or used in calculating the estimated out-of-pocket cost of prescription benefits the Current Plan for Medicare eligible Current Plan Participants for the plan years 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 9, and 10.

Subject to these objections, CNH states that it is not aware of any responsive documents.

**19. All documents showing or used in calculating the estimated out-of-pocket cost of medical benefits the Proposed Plan for non-Medicare eligible Proposed Plan Participants in deductible, co-pays, co-insurance or other payments for the plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**20. All documents showing or used in calculating the estimated out-of-pocket cost of prescription drug benefits the Proposed Plan for non-Medicare eligible Proposed Plan Participants for the plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.



**21. All documents showing or used in calculating the estimated out-of-pocket cost of medical benefits the Proposed Plan for Medicare eligible Proposed Plan Participants in deductible, co-pays, co-insurance or other payments for the plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**22. All documents showing or used in calculating the estimated out-of-pocket cost of prescription drug benefits the Proposed Plan for Medicare eligible Proposed Plan Participants for the plan years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**23. All documents showing or used in calculating the projected annual cost to the Company for medical benefits for Medicare-eligible participants under the Current Plan for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**24. All documents showing or used in calculating the projected annual cost to the Company for medical benefits for non-Medicare-eligible participants under the Current Plan for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**25. All documents showing or used in calculating the projected annual cost to the Company for prescription drug benefits for Medicare-eligible participants under the Current Plan for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**



**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**26. All documents showing or used in calculating the projected annual cost to the Company for prescription drug benefits for non-Medicare-eligible participants under the Current Plan for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, 10, and 12.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**27. All documents showing or used in calculating the projected annual cost to Medicare-eligible participants under the Current Plan for out-of-pocket medical expenses (e.g., deductibles, co-pays and co-insurance) for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**28. All documents showing or used in calculating the projected annual cost to non-Medicare-eligible participants under the Current Plan for out-of-pocket medical expenses (e.g., deductibles, co-pays and co-insurance) for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**29. All documents showing or used in calculating the projected annual cost to Medicare-eligible participants under the Current Plan for out-of-pocket prescription drug expenses (e.g., deductibles, co-pays and co-insurance) for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**30. All documents showing or used in calculating the projected annual cost to non-Medicare-eligible participants under the Current Plan for out-of-pocket prescription drug expenses (e.g., deductibles, co-pays and co-insurance) for the following plan years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 9, and 10.

Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**31. All documents used or consulted by Sharif Amin, or anyone working for or with Mr. Amin, in the preparation or drafting of Mr. Amin's June 30, 2010 Declaration by the following paragraph: 5-14**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 4, 8, 9, 10, and 11. Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**32. All documents used or consulted by Scott Macey, or anyone working for or with Mr. Macey, in the preparation or drafting of Mr. Macey's June 30, 2010 Declaration by the following paragraphs: 4-8, 10-14, 17-31 and 33-42.**

**RESPONSE:** CNH incorporates by reference its General Objections 1 and 9. Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**33. For each Class Member receiving a pension under the Company hourly pension plan who is under 62 and one month, all documents showing the amount of his or her monthly supplemental pension, monthly basic pension beginning at age 62 and one month and, if the Class Member is a retiree who selected a joint survivor option, the monthly amount of that benefit.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 8, 9, 10, and 12.

**34. For each Class Member receiving a pension under the Company's hourly pension plan who is over 62 and one month, all documents showing the amount of his or her monthly basic pension beginning at age 62 and one month and, if the Class Member is a retiree who selected a joint survivor option, the monthly amount of that benefit.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 8, 9, 10, and 12.

**35. All documents showing the Company's receipt of Retiree Drug Subsidy (RDS) for the federal government for the plan years 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 9, 10, and 12. Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**36. All documents showing the Company's application for or receipt of payments from the Early Retiree Reinsurance Program (ERRP).**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 9, 10, and 12. Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**37. All documents that refer or relate to the "National and State Health Insurance Initiatives" Letter of Understanding set forth on page 88 of the 1998 Group Benefit Plan.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 8, 9, and 10.

**38. All documents that the Company intends to use, either in summary judgment proceedings or at trial, to support its position that the benefits in the Proposed Plan are reasonable.**

**RESPONSE:** CNH incorporates by reference its General Objections 1 and 12. Subject to these objections, CNH will produce responsive documents.

**39. The two most recent full year Utilization Reports for the Participants from the medical carrier(s) and the prescription drug carrier(s).**

**RESPONSE:** CNH incorporates by reference its General Objections 6, 8, 9, and 10. CNH objects further to Plaintiffs' use of the term "Participant," which is not defined in their

document requests, and which CNH interprets to have the same meaning as their defined term “Current Plan Participant.” Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

**40. Any and all documents that relate to the annual RDS subsidy payments received by the Company from the inception of such subsidy payments to the current calendar year.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 8, 9, 10, and 12. Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.


**41. Any and all documents that relate to the ERRP payments from the inception of such payments to the current calendar year.**

**RESPONSE:** CNH incorporates by reference its General Objections 1, 6, 8, 9, 10, and 12. Subject to these objections, CNH will produce responsive, non-privileged documents to the extent they can be located after a reasonable search.

Dated: April 24, 2013

Respectfully submitted,

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*Attorneys for CNH Global N.V. and CNH America LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that **CNH's Corrected Response to Plaintiffs' Fourth Request for Production of Documents** was served on April 24, 2013, by first-class mail, postage-prepaid, on:

Darcie R. Brault  
David R. Radtke  
Roger J. McClow  
McKnight, McClow, Canzano, Smith & Radtke, P.C.  
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Laura J. Capotosto